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Via electronic filing

May 10, 2011

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

**Re: WC Docket No. 11-42. Public Notice Seeking Comment on
Lifeline Program "One-Per-Residence" Rule.**

Dear Federal Communications Commission:

We write in response to the Public Notice seeking comment on Lifeline Program's "one-per-residence" rule. We believe that the FCC should clarify the rule in a way that allows each qualified individual residing in a group living facility or in group living quarters to obtain Lifeline wireless telephone service. We believe that this clarification will provide full access to the program for all qualified individuals.

MFY Legal Services, Inc. (MFY) is a nonprofit organization providing legal assistance to poor and low-income people in New York City, many of whom live in group living quarters. We have previously submitted comments regarding Lifeline's "One-Household" Rule.¹

Currently, the regulations governing the Lifeline program do not provide a mechanism for each qualifying individual in group living quarters to receive the Lifeline service due to the congregate nature of these residences. The proposed "one-per-residence" rule would only further limit access to this important program by individuals in these residences. We submit the following comments to address this problem.

Effects Of Proposed One-Per-Residence Rule

The Lifeline program was established to ensure that all consumers, even those of limited means, would have a "lifeline" – a basic telephone service to connect them to the rest of society. This is an extremely important and potentially life-saving program for elderly, disabled, and low-income individuals who are often vulnerable and isolated from society in congregate living environments.

¹ MFY submitted our previous comments, attached hereto, in light of resident reports from at least seven different adult homes that their Safelink applications were rejected because they had the same address as someone already receiving Safelink service. Their applications were rejected because they resided at the same address as a previous Safelink applicant, yet they did not reside in the same household.

In group living quarters such as adult homes,² community residences, and single-room-occupancy residences, hundreds of individuals live together in a congregate setting located at a single residential address. In many facilities, two (and sometimes three) residents share a single room. In New York, a significant number of individuals who would otherwise qualify for and benefit from Lifeline wireless service live in this type of setting. Adult homes, for example, house more than 35,000 individuals in over 500 facilities statewide.³

Providing access to only one wireless Lifeline telephone at each U.S. Postal address would only provide a “lifeline” to one inhabitant of a building which houses hundreds of qualified applicants. Absent a provision which addresses Lifeline service for individuals in group living environments, the application of the one-per residential address rule would most certainly produce unintended consequences that would deprive deserving low-income consumers of the support that they otherwise would be entitled to.

Proposed Provision for Group Living Facilities and Group Living Quarters.

The definition of “residential address” should simply include a provision which applies to the residential addresses of individuals in group living facilities and group living quarters. This should include facilities that are commercially zoned. We propose the following language:

Each individual residing in a group living facility or group living quarters, including, but not limited to, assisted living residences, adult homes, board-and-care homes, group homes, community residences, single-room-occupancy buildings, and boarding houses, shall be considered a separate one-person residence for the purposes of the Lifeline wireless program. The “residential address” for an individual residing in a group living facility or in group living quarters shall include the facility’s address, the individual’s room number within the facility, and, if applicable, the individual’s bed number (e.g. Bed A, Bed B) within the individual’s room.

Such a provision would permit each low-income individual living in a group living environment to have a “lifeline” as contemplated by the program. It is important to note that each resident should be permitted to apply for Lifeline service on his or her own or with the assistance of the facility or building, but the process should not condition service on the facility’s involvement.

A provision which addresses Lifeline service in group living facilities would not contribute to waste, fraud, and abuse in the Lifeline program. Group living facilities are

² An adult home is “an adult-care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator.” 18 N.Y. Comp. Codes R. & Regs. § 485.2(b).

³ Adult Home Reform (Schuyler Center for Analysis and Advocacy), *available at* <http://www.scaany.org/initiatives/AdultHomeReform.php>.

generally considered to be permanent housing, just like any other recipient's apartment or house. The annual re-certification process already required by the program obliges each recipient to provide updated information on his or her current address, income, and entitlements to ensure that he or she is still qualified for the program. This same re-certification process for individuals in group living facilities and group living quarters will provide the same assurances.

The Lifeline program is an important benefit for low-income and disabled individuals who could not otherwise afford phone service. We urge the Commission to make any necessary changes so that all qualified individuals may receive Lifeline wireless service.

Sincerely,

A handwritten signature in cursive script, reading "Shelly R. Weizman". The signature is fluid and extends horizontally across the page.

Shelly R. Weizman
Staff Attorney



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Via electronic filing

November 19, 2009

Federal Communications Commission
445 12th St., S.W.
Washington, D.D. 20554

**Re: WC Docket No. 03-109. Public Notice Seeking Comment on
TracFone Request for Clarification of Universal Service
Lifeline Program "One-Per-Household" Rule as Applied to
Group Living Facilities.**

Dear Federal Communications Commission:

We write in response to the Public Notice seeking comment on TracFone's request to clarify the "one-per-household" rule as it pertains to the Lifeline Program and group living facilities. We believe that the FCC should clarify the rule in a way that allows qualified residents of group living facilities as well as homeless individuals to obtain Lifeline wireless telephone service, commonly known as the "Safelink" program.

MFY Legal Services is a nonprofit organization providing legal assistance to poor and low-income people, many of whom have disabilities. We have been contacted by several individuals who qualify for Safelink service but have had their applications rejected because they live in adult homes, congregate living facilities, or other multiple unit dwellings. We also understand that some homeless individuals are unable to access the program for the lack of a valid residential address and other individuals are denied Safelink service because their address is considered commercial rather than residential. We submit the following comments to address these problems.

Effects of one-per-household rule on Safelink program applicants

The one-per-household rule limits Safelink service to "a single telephone line in [a low-income consumer's] principal residence."¹ The one-per-household rule as it is currently applied in the Safelink program results in the rejection of qualified applicants living in adult homes, private apartments and other residential settings, described as follows:

¹ 19 F.C.C.R. 8302, 8306.

- **Adult Homes**

An adult home is “an adult-care facility established and operated for the purpose of providing long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator.”² They are licensed and regulated by the New York State Department of Health. They serve “adults who . . . are, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, unable or substantially unable to live independently.”³ In New York State, there are more than 500 adult homes which house more than 35,000 individuals.⁴

Residents in at least seven different adult homes have reported to MFY that their Safelink applications were rejected because they had the same address as someone already receiving Safelink service. These are individuals who are eligible based on their income level or participation in a qualifying assistance program. Their applications were rejected because they reside at the same address as a previous Safelink applicant, yet they do not reside in the same household. Each adult home resident should be considered a separate one-person household for the purposes of the Safelink program.

- **Private Apartments**

One MFY client living in private apartment was also rejected for Safelink service despite being eligible as a recipient of Supplemental Security Income (SSI). MFY attempted to submit a Safelink application for him online. He was the only person in his household and had never applied for Safelink service. After submitting his personal information, the website informed us that an application had already been submitted for the client’s address and we were thus unable to complete the application for submission online or by mail. We spent several hours trying to call both Safelink and Tracfone to resolve the matter, but were either referred to another number or placed on hold indefinitely.

²18 N.Y. Comp. Codes R. & Regs. § 485.2(b).

³18 N.Y. Comp. Codes R. & Regs. § 485.2(a).

⁴ See Adult Home Reform (Schuyler Center for Analysis and Advocacy), *available at* <http://www.scaany.org/initiatives/AdultHomeReform.php>.

- **Other Settings**

In addition to the problems faced by our clients, we have been informed about other problems with Safelink program access by the broader legal services community. Our colleagues have expressed concerns that homeless individuals are unable to apply for Safelink service and that individuals living in Single Room Occupancy (SRO) buildings have been denied service because their address has been deemed commercial rather than residential.

Recommendations

The access problem posed by the one-per-household rule for the Safelink program is similar to a problem previously addressed in the federal regulatory context. In 2008, MFY was contacted by an adult home resident who had applied to the Analog-to-Digital Converter Box Coupon Program but was rejected because he was deemed to reside at a business address. In June 2008, MFY submitted comments to the National Telecommunications and Information Administration (NTIA) on proposed rulemaking for the Converter Box Coupon Program. As a result of that process, the NTIA waived the eligible household and application requirements for individuals residing in nursing homes, intermediate care facilities, and assisted living facilities and created alternative application requirements.⁵ As recommended by MFY, the NTIA referred to the eligibility requirements and definitions for the U.S. Department of Housing and Urban Development's (HUD) mortgage insurance program for nursing homes, intermediate care, board and care homes, and assisted-living facilities as provided in 12 U.S.C. § 1715 to craft its definitions for eligibility for the waiver.

MFY recommends that the FCC take similar action and provide guidance to TracFone on the one-per-household rule which would allow it to:

- Define residents of adult homes, nursing homes, and other group living facilities as separate households so that it enables qualified applicants in those facilities to receive Safelink service even if another resident is already receiving such service.
- Change the identification of households within private apartment buildings so that each qualified household, including single individuals who may live with roommates, is able to apply for and receive Safelink service.
- Change the identification of households within SRO buildings and other residential buildings currently deemed commercial addresses,

⁵ See 73 Fed. Reg. 183 (Sep. 19, 2008).

so that each qualified household is able to apply for and receive Safelink service.

- Enable homeless individuals not residing in shelters to apply for Safelink service through a community organization that can certify their basic qualifications for service, including a certification that no one in their household is currently receiving Safelink service.
- Direct TracFone to publicize any changes to application procedures and eligibility requirements so that previous applicants know that their application will not be rejected for the same reasons.

Safelink is an important benefit for low-income and disabled individuals who could not otherwise afford phone service. We urge the Federal Communications Commission to make any necessary changes so that all qualified households may receive Safelink service.

Sincerely,



Jota Borgmann
Staff Attorney

Cc (via electronic mail):

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